

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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	:	
MARIO BAUTISTA DURAN, individually and on behalf of all other persons similarly situated,	:	
Plaintiff,	:	<u>DECISION AND ORDER</u>
	:	
- against -	:	15-cv-7243 (AMD)(LB)
	:	
SUPERIOR COOLING LLC and MENDY ISRAEL, jointly and severally,	:	
Defendants.	:	
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FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.
★ MAY 30 2017 ★
BROOKLYN OFFICE

ANN DONNELLY, District Judge.

The plaintiff, Mario Bautista Duran, individually and on behalf of all other persons similarly situated, commenced this action against the defendants, Superior Cooling, LLC and Mendy Israel, pursuant to the Fair Labor Standards Act, 29 U.S.C. §§ 201 *et seq.* ("FLSA"), and the New York Law Laws, Art. 6, §§ 190-99 and Art. 19, §§ 650-65 (collectively "NYLL"). The plaintiff alleges that the defendants violated the FLSA and NYLL by failing to pay him overtime, failing to comply with uniform maintenance practices, failing to provide wage notice and acknowledgment, and failing to maintain accurate and sufficient records. Despite proper service of the summons and complaint, the defendants failed to plead otherwise or defend this action. The plaintiff now moves for a default judgment pursuant to Rule 55(b)(2) of the Federal Rules of Civil procedure and for attorney's fees, costs, and interest.

In a Report and Recommendation issued on May 10, 2017, Magistrate Judge Lois Bloom recommended that the Court enter default judgment against the defendants in the amount of

\$32,337.69. (ECF 25.) The defendants were served the Report and Recommendation on May 15, 2017. (ECF 26.) No party has objected to Judge Bloom's Report and Recommendation within the time prescribed by 28 U.S.C. § 636(b)(1). For the reasons that follow, I adopt Judge Bloom's report in its entirety.

In reviewing a Report and Recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Where, as here, no party has objected to the magistrate judge's recommendation, "a district court need only satisfy itself that there is no clear error on the face of the record." *Urena v. New York*, 160 F.Supp.2d 606, 609-10 (S.D.N.Y. 2001) (quoting *Nelson v. Smith*, 618 F.Supp. 1186, 1189 (S.D.N.Y. 1985)).

This Court has reviewed Judge Bloom's thorough and well-reasoned opinion and finds no error. Accordingly, I enter a default judgment against the defendants in the total amount of \$32,337.69, representing \$10,737.25 in unpaid overtime wages, \$9,115.96 in liquidated damages, \$5,000 in statutory damages, \$2,646.96 in prejudgment interest, \$4,105.00 in attorney's fees, and \$732.52 in costs. I also award the plaintiff prejudgment interest under the NYLL at a rate of \$1.23 per day through today. The Clerk of the Court is respectfully directed to close this case.

SO ORDERED.

s/Ann M. Donnelly

Ann M. Donnelly
United States District Judge



Dated: Brooklyn, New York
May 30, 2017